

Federal Emergency Management Agency

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(d) *Loss by theft or robbery.* Claims for property loss by theft or robbery should be accompanied by a statement indicating:

(1) Geographical location;

(2) Facts and circumstances surrounding the loss, including evidence of the crime such as breaking and entering, capture of the thief or robber, or recovery of part of the stolen goods; and

(3) Evidence that the claimant exercised due care in protecting the property prior to the loss, including information as to the degree of care normally exercised in the locale of the loss due to any unusual risks involved.

(e) *Transportation losses.* Claims for transportation losses should be accompanied by the following:

(1) Copies of orders authorizing the travel, transportation, or shipment or a certificate explaining the absence of orders and stating their substance;

(2) Statement in cases where property was turned over to a shipping officer, supply officer, or contract packer indicating:

(i) Name (or designation) and address of the shipping officer, supply officer, or contract packer indicating;

(ii) Date the property was turned over;

(iii) Inventoried condition when the property was turned over;

(iv) When and where the property was packed and by whom;

(v) Date of shipment;

(vi) Copies of all bills of lading, inventories, and other applicable shipping documents;

(vii) Date and place of delivery to the claimant;

(viii) Date the property was unpacked by the carrier, claimant, or Government;

(ix) Statement of disinterested witnesses as to the condition of the property when received and delivered, or as to handling or storage;

(x) Whether the negligence of any Government employee acting within the scope of his/her employment caused the damage or loss;

(xi) Whether the last common carrier or local carrier was given a clear receipt, except for concealed damages;

(xii) Total gross, tare, and new weight of shipment;

(xiii) Insurance certificate or policy if losses are privately insured;

(xiv) Copy of the demand on carrier or insured, or both, when required, and the reply, if any;

(xv) Action taken by the claimant to locate missing baggage or household effects, including related correspondence.

(f) *Marine or aircraft disaster.* Claims for property losses due to marine or aircraft disaster should be accompanied by a copy of orders or other evidence to establish the claimant's right to be, or to have property on board.

(g) *Enemy action, public disaster, or public service.* Claims for property losses due to enemy action, public disaster, or public service should be accompanied by:

(1) Copies of orders or other evidence establishing the claimant's required presence in the area involved; and

(2) A detailed statement of facts and circumstances showing an applicable case enumerated in § 11.73(c)(8).

(h) *Money.* Claims for loss of money deposited for safekeeping, transmittal, or other authorized disposition should be accompanied by:

(1) Name, grade, and address of the person or persons who received money and any others involved;

(2) Name and designation of the authority who authorized such person or persons to accept personal funds and the disposition required; and

(3) Receipts and written sworn statements explaining the failure to account for funds or return them to the claimant.

(i) *Motor vehicles or mobile homes in transit.* Claims for damage to motor vehicles or mobile homes in transit should be accompanied by a copy of orders or other available evidence to establish the claimant's lawful right to have the property shipped and evidence to establish damage in transit.

§ 11.77 Settlement of claims.

(a) The General Counsel, FEMA, is authorized to settle (consider, ascertain, adjust, determine, and dispose of, whether by full or partial allowance or disallowance) any claim under this subpart.

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(b) The General Counsel may formulate such procedures and make such re-delegations as may be required to fulfill the objectives of this subpart.

(c) The General Counsel shall conduct or request the Office of Inspector General to conduct such investigation as may be appropriate in order to determine the validity of a claim.

(d) The General Counsel shall notify a claimant in writing of action taken on their claim, and if partial or full disallowance is made, the reasons therefor.

(e) In the event a claim submitted against a carrier under § 11.75 has not been settled, before settlement of the claim against the Government pursuant to this subpart, the General Counsel shall notify such carrier or insurer to pay the proceeds of the claim to FEMA to the extent FEMA has paid such to claimant in settlement.

(f) The settlement of a claim under this subpart, whether by full or partial allowance or disallowance, is final and conclusive.

§ 11.78 Computation of amount of award.

(a) The amount allowed for damage to or loss of any items of property may not exceed the cost of the item (either the price paid in cash or property, or the value at the time of acquisition if not acquired by purchase or exchange), and there will be no allowance for replacement cost or for appreciation in the value of the property. Subject to these limitations, the amount allowable is either:

(1) The depreciated value, immediately prior to the loss or damage, of property lost or damaged beyond economical repair, less any salvage value; or

(2) The reasonable cost of repairs, when property is economically repairable, provided that the cost of repairs does not exceed the amount allowable under paragraph (a)(1) of this section.

(b) Depreciation in value is determined by considering the type of article involved, its costs, its conditions when damaged or lost, and the time elapsed between the date of acquisition and the date of damage or loss.

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(c) Replacement of lost or damaged property may be made in-kind whenever appropriate.

§ 11.79 Attorney's fees.

No more than 10 per centum of the amount paid in settlement of each individual claim submitted and settled under this subpart shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with that claim. A person violating this section shall be fined not more than \$1,000.

(Information collection approved by Office of Management and Budget under Control No. 3067–0167)

PART 12—ADVISORY COMMITTEES

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AUTHORITY: Federal Advisory Committee Act, 5 U.S.C. app. 1; Reorganization Plan No. 3 of 1978; E.O. 12127; E.O. 12148; E.O. 12024.

SOURCE: 45 FR 64180, Sept. 29, 1980, unless otherwise noted.

§ 12.1 Purpose and applicability.

(a) The regulations in this part implement the Federal Advisory Committee Act, Executive Order 12024 and General Services Administration Regulation 41 CFR part 101–6. The provisions of the Federal Advisory Committee Act in this part shall apply to all advisory